



Alan C. Lloyd, Ph.D.
Agency Secretary

Air Resources Board

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Arnold Schwarzenegger
Governor

April 29, 2005

Mr. Steven Arita
Western States Petroleum Association
1415 L Street, Suite 600
Sacramento, California 95814

Dear Mr. Arita:

This is a follow-up letter to our letter of March 16, 2005, regarding the Healy EVR Phase II system Executive Order VR-201-A which was issued April 8, 2005. Your concern, as expressed in your letter of February 24, 2005, is that the Healy system with vapor bladder, also known as the Clean Air Separator or "CAS," might be considered an above ground storage tank (AST) by local permitting agencies. As stated in your letter, classification of the Healy CAS as an AST may trigger property line setback conditions and liquid containment requirements. You requested clarification of the regulatory jurisdictional issue and asked for appropriate guidance for local agencies at or before the issuance of the Healy EVR Phase II Executive Order. In our March 16, 2005, letter, we agreed to issue guidance, if possible in conjunction with the State Water Resources Control Board (State Water Board), on the proper classification of the Healy CAS and any corresponding CAS installation limitations when the Healy EVR Phase II Executive Order is issued.

We checked with the State Water Board's staff and they stated that only ASTs with a capacity greater than 1320 gallons are regulated as ASTs. The capacity of the Healy Clean Air Separator system is only 400 gallons, therefore it would not be regulated as an AST under state water control law. In addition, the CAS is not an AST under ARB's definition in D-200 as the tank does not require emergency relief venting.

We consider the Healy CAS to be a vapor recovery processor. As we noted in our letter of March 16, 2005, the State Fire Marshal has approved the Healy CAS when installed in accordance with the manufacturer's installation instructions. The CAS is to be installed in close proximity to the product storage tank vent system in accordance with NFPA 30A, Chapter 10, "Vapor Processing and Vapor Recovery Systems for Liquid Motor Fuels". If you have questions on the State Fire Marshal approval, you may wish to contact Mr. James Parsegian at james.parsegian@fire.ca.gov or (916) 445-6787.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

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Your letter also requested clarification regarding jurisdictional authority of local agencies. Section 41960 of the Health and Safety Code provides as follows:

§ 41960 Local or regional authorities

- (a) Certification of a gasoline vapor recovery system for safety and measurement accuracy by the State Fire Marshal and the Division of Measurement Standards and, if necessary by the Division of Occupational Safety and Health shall permit its installation wherever required in the state, if the system is also certified by the state board.*
- (b) Except as otherwise provided in subdivision (g) of Section 41954, no local or regional authority shall prohibit the installation of a certified system without obtaining concurrence from the state agency responsible for the aspects of the system which the local or regional authority disapproves.*

We trust that this letter will serve as guidance for service station operators and local permitting authorities. If you have questions or comments, please contact Cindy Castronovo at (916) 322-8957 or ccastron@arb.ca.gov.

Sincerely,



George Lew, Chief
Engineering and Certification Branch
Monitoring and Laboratory Division

Enclosure

cc: Elizabeth Haven
State Water Resources Control Board

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Healy Systems, Inc.